



THE PENNSYLVANIA STATE UNIVERSITY

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When existing communication channels seem insufficient, Senators are encouraged to submit brief letters relevant to the Senate's function as a legislative, advisory and forensic body to the Chair for possible inclusion in The Senate Record.

Reports that have appeared in the Agenda for the meeting are not included in The Senate Record unless they have been changed substantially during the meeting, or are considered to be of major importance. Remarks and discussions are abbreviated in most instances. Every Senate meeting is Webcast via Mediasite Live and may be viewed at <http://senate.psu.edu/agenda/index.html>. All Senate meetings are digitally audio taped and on file in the Senate office. Transcriptions of portions of the Senate meeting are available upon request.

Individuals with questions may contact Dr. Susan C. Youtz, Executive Secretary, University Faculty Senate.

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The University Faculty Senate
Tuesday, September 9, 2008, at 1:30 PM

The University Faculty Senate met on Tuesday, September 9, 2008, at 1:30 p.m. in room 112
Kern Graduate Building with Ingrid Blood, Chair, presiding.

MINUTES OF THE PRECEDING MEETING

Chair Blood: It's great to be back for another academic year!

The agenda for today's meeting is relevant, engaging, and worthy of our time. I'd like to start the meeting by closing the gap between the end of the last academic year and the start of this year by acting on last April's minutes.

The April 29, 2008, Senate Record, provides a full transcription of the proceedings, was sent to all University Libraries and is posted on the Faculty Senate Web site. Are there any corrections or additions to this document? May I hear a motion to accept?

Senators: So moved.

Chair Blood: Second?

Senators: Second.

Chair Blood: All in favor of accepting the minutes, please say aye.

Senators: Aye.

Chair Blood: Opposed say nay. The ayes have it, motion carried. The minutes of the April 29, 2008, meeting have been approved.

COMMUNICATIONS TO THE SENATE

Chair Blood: Senate Curriculum Report of August 26, 2008. This document is also posted on the University Faculty Senate Web site.

REPORT TO SENATE COUNCIL – Meeting of August 19, 2008

Chair Blood: Enclosed in today's agenda are the minutes from the August 19 meeting of Senate Council found at the end of your agenda. Included in the minutes are topics that were discussed by the Faculty Advisory Committee to the President at the August 19 meeting.

ANNOUNCEMENTS BY THE CHAIR

Chair Blood: Out of courtesy to our presenters, please turn off your cell phones and pagers at this time.

I want to welcome all new and returning senators, faculty, students, ex-officio, and appointed senators to the new Senate year. I anticipate a productive year and want to introduce the other officers of the Senate: Chair-Elect Lee Coraor, College of Engineering; Secretary John Boehmer, College of Medicine; and Immediate Past Chair Dawn Blasko, Penn State Erie, The Behrend College. Jean Landa Pytel, College of Engineering, is serving as Parliamentarian.

I also want to acknowledge the Senate office staff and the chairs and vice-chairs of the 15 standing committees of the Senate. Will you all please stand? All the committee chairs, vice chairs, staff of the Senate, thank you. You can find information on the Senate committees including committee priorities on the Senate Web page. As the Senate year progresses, committee minutes will be posted.

The Senate officers will visit the following campuses during the fall semester: Worthington Scranton on September 15, Wilkes-Barre and Hazleton on September 16, Schuylkill on September 17, Altoona on September 30, Fayette on October 1, Medicine on October 14, and the Pennsylvania College of Technology on October 15.

The Dickinson School of Law visit will be scheduled in spring 2009.

I want to urge senators at these campuses to encourage your colleagues and students to attend the meetings. Information on meeting times and locations may be obtained from the chancellor's and dean's offices.

On August 13, faculty governance representatives from ten Commonwealth colleges, including two Senate officers and the Executive Secretary, met at Penn State Schuylkill. This year's meeting was coordinated by Schuylkill faculty members Pamela Preston and Anita Vickers in collaboration with the campus leadership. Again this year, Provost Erickson provided financial support for the meeting, including travel and meals. We are grateful for his support.

This was the third meeting of campus governance leaders. In 2005 and 2007, Penn State Altoona hosted the meeting. We are pleased to learn that Penn State Abington is interested in hosting the meeting next August.

The 2008-2009 Senate Constitutions were mailed last week to all of the senators. If you do not have a copy, please call the Senate office.

In late June, Provost Erickson and I charged a Joint Senate/Administrative Taskforce to examine Instructional Intellectual Property issues. The committee charge can be found on the Senate Committees Web page under "Special Committees." Some of the areas the taskforce will be discussing can be found in the Faculty Affairs Forensic report in today's agenda. John Nichols, past Senate chair and Associate Dean for Research and Graduate programs in the College of Communications is chairing the taskforce and will make brief comments following today's Forensic session. We look forward to receiving the final report from this taskforce later in the fall or perhaps early next semester.

We have received a report from the taskforce co-chaired by Jeremy Cohen and Dawn Blasko that was charged last September to examine a variety of issues related to on-line and World Campus policies and procedures. This group met for most of last year and submitted recommendations to the Administrative Council on Undergraduate Education, the Senate, and the Online Steering Committee. The final report is posted on the Senate committees Web page under “Special Committees.”

President Spanier has approved the following reports from the April 29, 2008, Senate meeting: from Admissions, Records, Scheduling, and Student Aid, Revision to Senate Policy 47-70, Mid-Semester Evaluations, and from Undergraduate Education, Report of the Ad Hoc First-Year Seminar Committee.

President Spanier has asked Bill Mahon, Vice President for University Relations; and Kevin Morooney, Vice Provost for Information Technology; to address the five points in the Computing and Information Systems Penn State Web Presence report from the April 29 Senate meeting.

At the April 2008 meeting, the Senate passed legislation on the First-Year Seminar. A portion of that legislation calls for the establishment of a joint Senate/Administrative committee to review first-year engagement plans. Rob Pangborn and I will be co-charging this committee in a few weeks and all colleges and campuses will receive guidelines for submitting their first-year engagement plans. These plans have to be approved and in place for students entering the University summer 2009.

Keeping a Penn State education affordable for families of modest means by increasing scholarship support is the top priority of the campaign, *For the Future: the Campaign for Penn State Students*. At last year’s meeting, Dawn Blasko announced that the Faculty Trustee Scholarship was endowed at the \$50,000 level. I would like to encourage each of the Senate members to consider making a gift or multi-year pledge to the Faculty Trustee Scholarship. Anyone wishing to support this effort may obtain the appropriate forms either through the Faculty Senate office or by contacting Ed Thompson in the Development office at edthompson@psu.edu or 865-7698.

At the back of the auditorium is a flier announcing a professional development conference on academic advising this Thursday and Friday at the Penn Stater Conference Center Hotel. The theme of the conference is entitled “What Do We Know About Academic Advising: Theory, Research, and Practice.”

The Senate is pleased to join the Division of Undergraduate Studies and the Office of Undergraduate Education this year in sponsoring this meeting. I want to encourage you to attend part or all of this meeting. If you have any questions about the meeting or registration, call DUS or Eric White at 865-7576.

We are a community of scholars engaged in service to promote academic excellence. The University Faculty Senate is a network of approximately 270 elected or appointed representatives from all campuses and colleges at Penn State. Our shared governance structure is built on our

passion and participation. We are driven by common sense, by sound judgment, and a concern with doing what is right and doing what is effective. We have vast and far-reaching expertise to tap from our faculty, students, staff, and administrators and a range of opportunities for leveraging our collective talents.

While agenda items are quite different from one another, they all fit together to encourage academic excellence. Thought-provoking, interesting, and intelligent discussions will lead us towards achieving goals that affect the common good. By raising your voice to say “Nay or Aye” or by pressing an “A or B on your clicker” you do change the University. You have the power and authority to change the general education curriculum, to require first-year seminars, and change our constitution. We have input into on-line teaching, starting a whole new law school, and just about every aspect at Penn State. We know that society’s greatest asset is an education. Ultimately, we decide on what it means to become an educated citizen equipped to live in the 21st century. We are guardians of academic freedom, advocates for excellence, protectors of faculty and student rights, and caring people.

It is an honor to work with all of you in shaping our academic and intellectual environment. The officers and I would like to invite you after the meeting for an ice cream social in the lobby. Please plan to stay, please stay engaged, and enjoy meeting other Senators.

COMMENTS BY THE PRESIDENT OF THE UNIVERSITY

President Spanier commented on the following topics:

- Introduced the new Vice President for Student Affairs, Damon Sims;
- Presented enrollment information for summer and fall 2008;
- Discussed the recent Volunteer Summit and progress with the capital campaign: *For the Future: The Campaign for Penn State Students*;
- Announced two dean searches: Behrend and Libraries;
- Recognized Berks and New Kensington campuses for celebrating their 50th anniversaries;
- Acknowledged the women’s volleyball team for their NCAA championship and urged faculty to attend their matches;
- Discussed the report on computer security and protecting privacy.

President Spanier responded to questions about the following topics:

- Concerns about another enrollment bulge, similar to three years ago;
- United Students Against Sweatshops representative asked about the Designated Suppliers Program.

SPECIAL INFORMATIONAL REPORT

SENATE COUNCIL

Improving Computer Security and Protecting Privacy
Kevin Morooney, Vice Provost for Information Technology

Chair Blood: President Spanier just discussed the computer scanning initiative. Earlier, at the August 19 FAC meeting, President Spanier and Provost Erickson discussed the computer

scanning initiative involving the scanning of the hard drives of all University-owned computers. The Senate officers were encouraged to invite Vice Provost for Information Technology Kevin Morooney to give a presentation to the Senate on the University-wide computer scanning project. Earlier today Vice Provost Morooney and his colleagues met with the Faculty Affairs and Computing and Information Systems committees in a joint meeting.

Over the summer, the officers had a preliminary discussion with ITS representatives on this project. The officers learned there have been some breaches of computer security involving computers in a number of colleges, which was supported by President Spanier's statements today. These breaches put the University at great risk. Kevin Morooney and the staff of Information Technology Services have prepared a report and it appears as Appendix B in your agenda. I believe you also received a handout answering some questions. Mr. Morooney is here with Kathy Kimball, Senior Director of Security and Operation Services; Jeff Kuhns, Associate Vice Provost for Information Technology; and David Lindstrom, Chief Privacy Officer and Professor of Practice in the College of Medicine, to present this special report and respond to questions.

Senate Council has allocated ten minutes for presentation and ten minutes for discussion.

Kevin Morooney, Vice Provost for Information Technology: Good afternoon. Thank you Ingrid, for the introductions. Thanks to the Senate for giving us a few minutes today to talk about a very important matter and also thanks to my colleagues who have come here today to help me answer any questions that should come up. President Spanier, as always, is very prepared in his remarks and as he said, we have a very open environment at Penn State, but the first thing I want to tell you is that his expectations were minutes five or ten years ago, they were ten seconds two or three years ago, and now they are sub-five seconds. So perhaps, maybe we have had to adjust our service design a little bit in Information Technologies, but what we are here to talk about today is building a culture of safety and protecting privacy at Penn State.

I would like to start by describing some of the environments that we are faced with on a daily and annual basis. At University Park this past year, we have sustained the loss of 30 laptops through either theft or loss, and for those of you who follow identity loss on the Internet to any degree will recognize laptop loss as a way that the Veterans Administration has lost millions of identities on the Internet. The loss of even a single laptop can represent a pretty significant loss of information asset. In preparation for our conversation today, we decided to randomly pick a day very close to our conversation today and look at the number of hostile probes on our network. Last Friday, we sustained over 12 million hostile probes on our network, and what that means is about 140 times a second for the entire 24 hours of that day, it was as if people all across the globe were walking up to our computers and jiggling the handle to see if the door was open and to see if they can install perhaps bad software or take information assets that are important to us. That is a very intense and a very sophisticated threat. Last year, unfortunately, through the Chief Privacy Officer's office, David Lindstrom had to do 9,000 notifications of identity loss and those are very difficult telephone calls and mass mailings to do. Also, we had over 55,000 near misses. A near miss is when there is a probe, malicious software may be installed on a computer, and then through an analysis of both what is on the computer and an analysis of network logs, we are able to determine that no information was lost. But, had the

program been a little bit different or perhaps been on that computer a little bit longer, we may have sustained six times more the number of losses than we had last year. As President Spanier has already mentioned, we are averaging over 1,500 compromised computers annually since 2002. A compromised computer is when those probes are able to find an opening on your computer and install software and either destroy data or share data that you do not want to have destroyed.

The kinds of information that is of interest to criminals and criminal activity are social security numbers, credit card information and bank information, and unfortunately last spring semester and early in the summer, we had to do a scan of slightly over 3,000 computers in two different colleges here at University Park, and we discovered that over 51 percent of them had personally identifiable information like social security numbers, and credit cards, on them; unbeknownst, in many cases, to the people who were using those computers. Clearly the stakes are rising.

I would invite you to go onto the Internet and using your favorite search engine, type in any one of these institution names, followed by date of breach, and you will quickly find information relating to significant data breaches at each institution. At Harvard it was about 10,000. At Oklahoma State it was about 10,000. Virginia was slightly over 5,000, mostly faculty social security numbers in that incident. At Penn State one of the first magazine articles that pops up is Forbes magazine reporting an information loss we had last year. And the mother of all information losses in the last few years was the one at UCLA where 800,000 social security numbers were leaked through one of their systems. The damage to Penn State's reputation can be significant. Either through federal program managers, donors get pretty anxious when we have to tell the world that we have had some information loss, because we have some pretty sensitive information about our donors as well. And of course watch dog groups are very interested in how various enterprises and institutions are able to take care of this kind of data.

The cost of mitigation for these losses is rising. Trade journals that the folks in my world run around in, estimate that the cost per identity to mitigate is somewhere between \$150 and \$200. The second point here is one of the more important ones, in my opinion, to demonstrate the sophistication of the risk. Bank accounts go for about \$10 to \$1000 dollars on the Internet. Credit cards and full identities, which are described as social security number plus perhaps some other identifiable information, go for anywhere between \$1 and \$15. In half of the world, you have people who are collecting large inventories of personally identifiable information, and on the other side you have people who will buy that information and create other market places with our identities. Again, one of the toughest parts in all this is having to either be on the other end of the telephone or sit face-to-face with faculty and students who have lost their identity through perhaps some carelessness on our part.

We have a history of trying to build a culture of safe computing here at Penn State. In 2005 we eliminated the social security number as the main Penn State identifier, which reduced greatly the exposition of the social security number in a lot of our academic and business records. But now we are faced with the challenge of cleaning up that legacy data that still remains as we have seen from our scans this past spring. You buy a new computer and put the old data on it, and you have been doing that for a while, and we find that there are large Excel spreadsheets or other things that have large collections of information on it. In the last two years we have established

new password requirements for the Penn State access account. We have extra layers of security for grade submission, for those of you submitting grades. You have your secure ID token that is another technique that computer security analysts recommend for improving the culture of safe computing in an enterprise. We provide lots of training and support for systems administrators at all colleges and campuses who are responsible for installing and maintaining firewalls, helping us develop this culture of safe computing. I invite you to go check out this Web page at <http://its.psu.edu/takecontrol> to look at the entire campaign as it exists now.

We are entering into what needs to be two new phases to continue to build this culture. One is to assure that personally identifiable information on the computers is either removed or secured, depending upon what the situation might be, and then also for mobile devices, in particular laptops to begin with, but this would be true for USB drives and external hard drives. We want to ensure that they cannot be used should they be lost or stolen. With this kind of take up rate with faculty and staff, the opportunity for loss is only going to increase over time through theft and through misplacing those assets. Again, personally identifiable information that is looked for by the software that is site licensed looks for these kinds of strings. It also looks for financial account numbers with access codes and will look for particularly insidious software, malicious software, not too unlike an anti-virus program would use. As I have mentioned, many faculty and staff are just unaware. Just this semester we had a couple of breaches that are similar to the ones we had last spring. It is rare that someone says, "oh yeah, I knew that was there," they are usually caught by surprise.

The way we will go about doing this is that we have acquired site-licensed software. We have already had a couple of occasions to do this with two of our colleges. The software, working with your local IT staff, will be installed on your computer and will work very similarly to the way anti-virus software works on your computer. It scans for strings in files, collections of numbers that look like they might be social security numbers, driver's license numbers, and then creates a report that says here are the files that look like they might have this kind of personally identifiable information, and then you will work with your local IT staff and your local IT staff will work with us. As time goes on, we are getting pretty good at being able to determine what is and what is not a false positive. Sometimes part numbers show up, zip codes with extra strings show up from time to time, and we are getting pretty good at being able to quickly say, "you do not have to worry about that one, keep moving on through that which has been flagged." The bottom line is that Informational Technology Services is not going to be able to do this alone. It is going to take everybody in the IT world, and all faculty and staff, to help us move from wondering if we have personally identifiable information on our computers to eliminating that information.

The second phase is moving to full-disc encryption for mobile devices. If they are lost or stolen one of the things in the Pennsylvania Data Breach Notification law is if a device has full encryption on it, we do not have to notify because that is the encryption standard that is used for the software that is being site licensed. We do not have to report because it is generally regarded that it is so difficult to crack that software, it wouldn't be an information loss. One of the nice things about the solution that has been chosen is that no one in Information Technologies Services knows the password. Only you know the password. That is a double-edged sword if you are the only one who knows the password and you forget it. That does happen from time to

time and it almost always seems like it happens when someone is traveling abroad. I think there are password reset processes that enable you to reset it so that you can decrypt your hard drive, but no IT staff, yours or ours, has access to that information. What we are also trying to do is provide a site-licensed solution so that more of us, rather than fewer of us, can embrace the same solution so that user support costs and training costs are greatly reduced if we normalize, if not homogenize, how it is that we go about moving towards a more encrypted environment as we start our mobile devices.

As I mentioned, the encryption software can also be installed on global devices other than laptops. Laptops clearly represent a huge risk with having 80, 120, 150 GB on a hard drive. The impact to laptop performance is not noticeable by most people. There will be a small segment of the population who do a lot of input and output, writing and reading from their disc that may notice somewhere between five to ten percent performance hit. Also, at boot time, if your computer is completely turned off, and then you turn it on, it will take somewhere between seven to eight percent, by our measurements and vendors measurements, longer for it to boot. Currently, this software being site licensed is only available for Windows and Mac; OS10 has native capabilities in this space that we are and will be recommending formally. The encryption process for the Windows machines, as I was talking about before, can take anywhere between four and 12 hours. It is not too unlike doing a full back-up of your hard drive and then subsequent back-ups that are incremental take only a little bit of time. This encryption process can take a very long time if it is a very large drive with lots of dense information on it.

For those of you who work with the federal government, you will recognize that some of your colleagues in federal agencies already have to manage full-disc encryption on their mobile devices. They have to react to missed standards, National Institute for Standards and Technology standards, that are also coming our way, so watching our colleagues and federal research agencies change their behavior is the tip of the iceberg. We are watching this vector propagate through higher education, through research and through organizations. For those of you who work with colleagues in the private sector, this is an area and technique that has been used for the last couple of years, to a large extent, in those kinds of environments. Here is a list of other universities that have similar initiatives. We have called or emailed colleagues we know at these institutions and say, "hey, what are you guys doing in this phase?" This is not just from doing a Google search on the Web, but rather reaching out to colleagues at other institutions. At the University of Virginia, the entire school is going to mandatory reporting. The health system has another layer of abstraction that they are going to have to comply with, as you might expect for a medical school.

In short, we really do all need to participate in shifting from this culture of episodic enforcement or episodic mitigation of identity loss and important information loss and move to a culture of concern. That is a tagline, for those of you who bumped into Candy Yekel in the Office of Research Protections. I love when she speaks about moving from a culture of compliance to a culture of concern, and that is precisely what we need to do with these kinds of assets as well. It is true for hazardous materials, it is true for animal care, it is true for information that is important to us and important to the people that we serve at Penn State. Being proactive and systemic about this is going to be necessary because the threat is organized, the threat has a

marketplace, and the threat definitely is not going away. With that, I think I have used my allotted time.

Chair Blood: Are there any questions?

Paul Barney, Behrend: Just curious, if you can reset the password why can't the thief – on the encryption.

Kevin Morooney: I will defer to a technical expert, Kathy Kimball, our Senior Director for Security and Operation Services.

Kathy Kimball, Senior Director for Security and Operations Services: First of all, you are going to actually have that in your possession so yes, the thief could have that, but then they are going to have to call in and verify their identity with us and there is rather a complex string of things that have to occur. It requires a response between us and that computer before it is actually reset. It also only resets the encryption part of that. It does not get you all the way up into the computer. You are still going to have to know your Windows password. Again, they would have to call us and verify their identity to get that.

Abul Hasan, York: Is it possible to encrypt some part of the hard disc not the entire disc, for instance, those files and folders that are sensitive?

Kevin Morooney: I carry a Mac Book Pro with me, and that is how I am currently managing because I use an Apple Macintosh computer so I have a folder, if you will, into which I put sensitive information that is encrypted with a very strong password that is under lock and key and sealed in an envelope and all that kind of stuff. But, for details on the software that we are using for encryption, I will have to ask Kathy.

Kathy Kimball: What you are talking about there is what Kevin referred to as file and folder encryption, and that is just fine if it has sufficient strength. The reason that we would rather go to full-disc encryption is that people could leave sensitive information outside the encrypted files and folders. If the whole disc is encrypted, then David's job becomes much easier. We know we have no notification responsibility, we know the data was secure, and it is really very transparent to the user once it is installed. It is the installation process that is complicated.

Kevin Morooney: Personally, when I can go to full disc encryption, I will. Because I can't be 100 percent sure without it; the scanning process helps, but I would like to be walking around with a secure device. I have left it at airline check-in, I have left it on a sidewalk before waiting for a cab, and these are very frightening moments.

Unidentified Senator: I was trying to figure out how you came up with the \$150-\$200 to notify the people, because I used to work from out of state, so I was one of the ones who got a letter that said based on my parking permit somebody had accessed their database and I know that it only cost them less than \$0.42 to mail me the letter because they bulk mailed it to my home address in South Dakota, and I only go to South Dakota twice a year. So, I know that they did not spend \$150 to notify me that somebody had broken into their database.

Kevin Morooney: I was going to answer until I saw David Lindstrom fidget, so I will ask David to address your question.

David Lindstrom, Chief Privacy Officer : The Ponemon Institute, which is an institute that does a lot of research in this area, is the one that came up with \$197 per notification. Some would argue that might be a little high because it might include business loss or interruption of service. Certainly, there are a lot of internal costs for the institution. Every breach that we have, the number of meetings that we have of high level personnel is remarkable, because it takes a lot of forensic work to determine what happened, when it happened, did it happen, what obligations do we have, our legal bills to assess it and to give us advice. So, the stamp is pretty cheap.

Unidentified Senator: I am sorry, but if you read in the Appendix document, it says “via postal letter at \$150 per letter.”

David Lindstrom: The way that it is written makes it look a little simplistic. I would apologize for that.

Chair Blood: We have another question.

Suzanne Mohney, Earth and Mineral Sciences: I have heard from IT staff, and I hope what I have heard is incomplete or incorrect information, that scanning and encryption are only the first phases, and that ultimately only IT staff will be allowed to be administrators on University computers. Many faculty members and other researchers use their computers as their primary research tools, often with specialized software, and cannot afford to wait hours or over a weekend for someone else to help administer their machines. Moreover, these duties would be very burdensome for the administrators. I want to urge Penn State to consider educating users as opposed to restrictions that would unduly hinder our productivity.

Kevin Morooney: We share that concern, and unfortunately for the last 12 months or so I have been asked to report and present on security and compliant issues, but we spend a tremendous amount of energy and have a tremendous amount of personnel who help facilitate scholarship in the classroom and scholarship in the lab. It is an issue with which we are very familiar and very sensitive. I will say this, however. I started working at Penn State in 1988 and the large information assets at Penn State in 1988 were “the” computer on campus and it had a large storage capability. Several things happened between 1988 and 1993. I will not bore you with the personal stuff, but personal computing happened, the World Wide Web happened, and the compliance vector happened. Central systems have gone through and regularly have to go through rigorous auditing procedures to assert that they can protect the data that they are charged with protecting. The capability for storage on the edge is greater than it was even 20 years ago. This is not necessarily a concern that Penn State is going to have as much as it might be NIH, or NSF, or other funding agencies where you are a steward of maybe source code or maybe a steward of information, assets that maybe they care about, or social science data. I am not saying that is clearly the place we are going to go, but the administrative controls that we have to have on our business systems and some of our other information systems are rather onerous, and this

is the way it is going. The more information you can house that is sensitive, the better it needs to be protected.

Chair Blood: We have time for one or two more questions.

James Strauss, Science: There are some offices within our college that handle recommendation letters for various post-graduate institutions. In the past, the ID that had been used for those were, in fact, social security numbers. In the present they are now new numbers generated by the application service itself, however, I think our policy was to keep some of these letters on file for a period of up to 10 years because some students may apply later on. Those are actually in some computers on campus, in a letter of recommendation form. Are they something we should just dispose of or something that would be flagged in this scan? How do you handle something like that?

Kevin Morooney: David is, by name, responsible for being the decision-maker in such things, so it would be best if David as CPO addresses that.

David Lindstrom: The situation is that those records would maybe be identified in a scan. If we found them they would be in Word documents and those numbers would be seen, so that would help if we were not sure where they were. If they are there and you need them to be there, there are secure ways to do that with a process for AD19 exceptions where there are many units that need to work in a social security number environment. There are also archive files which may be stored offline and not accessible and those are also okay. We have a number of workarounds and we would be naïve to think that we can just stop using social security numbers entirely in the enterprise. There are workarounds for that and the answer is they can also be redacted, so there are lots of choices that we have.

Chair Blood: One more question.

John Hannan, Engineering: First, I want to make the clarification on the word “mandatory.” There is a wide gap between you saying it is mandatory for us to take care of our computer and run software and saying that you will mandatorily place software on our computer that we do not have control over that sends logs to a central location. So, using the word mandatory could mean a lot of things. I do think hardly anyone would be up-in-arms with a mandatory policy of making sure everyone ran the software on their own computers and did their own housekeeping. But what is up-in-arms here is the policy of mandatory where someone else is in control. Now I would like to run through a scenario: I run a Mac, several Macs. What we were told in Engineering last spring was that since Proventsure does not work on Windows, it was that Spider was being recommended. Spider is a pretty lousy program in terms of technology. I ran it on my Mac. It produced a log of 1,943 entries. I want you to step through, under your scenario, what happens to that log. Who was looking at it besides me? I know how to take care of it and fix it, and there is a lot of information in that log in terms of path names and file names that I do not like other people getting a look at; it is my computer. Who is going to step through 1,943 entries of which about 99 percent were false positives? There were a couple of positives. I found them, thankfully, and I cleaned them up.

Kevin Morooney: The way we have done it in the two incidences already is that faculty work with their local IT staff and if they need resolution, we are getting pretty good at determining that is definitely a part number, those are definitely zip codes, you can ignore that file, etcetera. You are right, there are a lot of false positives, but if 51 percent of the 3,169 computers had personally identifiable information, I think it is important that we have to try to mitigate that which is on the computers.

Chair Blood: We really have gotten to a point where we just do not have any more time for this subject.

Patrick McDaniel, Associate Professor in the Department of Computer Science in Engineering, has requested the privilege of floor to participate in discussion. I am pleased to recognize him. Professor McDaniel?

Kevin you may have to respond to this, I'm not sure yet.

Patrick McDaniel, Engineering: Actually, I am not sure I have anything to respond to. I actually have some additional information. I am sort of struck by the moment watching this presentation and understanding what a kind of complicated world that Penn State lives in. I am sort of reminded of a moment. A guy I used to work with at Bell Labs, named Steve Belvin, was on the National Academy of Engineers. He and I were sitting in a network operation center for AT&T, which is about 15 percent of the Internet. On Saturday morning of the introduction of the SQL Slammer worm, which basically took out the Internet for 36 hours; there were a lot of people in the room, a lot of administrators, and a lot of people who were running the network, and they were all in a panic and they were making suggestions like "Let's turn off Asia," which really didn't make a lot of sense. The only person who had a good deal of clarity was Steve. Steve has been part of technologies and central to network security technology for 30 years, and he just stopped everybody, and he said, "One thing we always need to remember in security is to continue breathing." The reason he said that is that there is a moment when an event occurs, when something happens that is a negative event and you have to deal with it. There is often a real urge to instigate strong actions where maybe weaker action will get the job done. I think we might be at one of those moments now. I think it is worth taking a step back and asking ourselves "What are the real key issues?" In that vein, in my interest in trying to help move the discussion forward, I have actually prepared some comments that I would like to read to you. Then I would like to offer a report that I did, and that I collected some comments from throughout the nation.

So let me begin. I am here today to urge caution in adopting the proposed data scanning and management policies offered by the institution, and to offer some potential directions for moving forward. As someone who has spent the balance of my professional life guiding national security and privacy policy, I understand the complex legal and regulatory morass that organizational data management has become. Data loss and privacy are thorny issues that any responsible organization must now deal with, and there are no simple solutions.

My concern with this policy is that while it begins to address important concerns of the institution, it fails to acknowledge the basic privacy rights and academic freedoms of the

students, faculty, and staff. By definition, privacy is violated the moment the University either directly or by proxy touches data for its own purposes without the consent of the data's owner. Software-based scans clearly perform this function, and thus can violate users' privacy.

Note that there are ways of implementing such policies while balancing the rights of others. The institutions that have implemented scanning policies have done so in ways that do not affect those rights. Prior efforts to implement security scans as currently proposed at universities such as the University of Pittsburgh have been rejected by the faculty. To be absolutely clear on this point: no major research institution has enacted a policy of this type, and Penn State would be setting what I believe is a dangerous precedent.

As many of our sister institutions have done, we must embrace the two key elements of an ethical data monitoring policy: notification and consent. Notification is the right of the data owners to know exactly when their data is being scanned and what it is being scanned for.

Most importantly, we must embrace a position of consent. Consent gives the owner of the data the right not to be scanned by the institution. Scanning of the data on my office computer is no different than entering my office and reviewing my work papers. No matter how laudable the goal, the University simply does not have the legal or moral authority to compel me to turn over those papers for review. Thus, this policy must allow students and faculty to reject scanning if they choose. Note that this does not rule out compulsory scanning by the data's owner.

Academic freedom is a core value of the academy that has been defended, often at great personal cost, for many centuries. Moreover, as history has shown, protecting our ability to perform scholarship without institutional oversight is essential to the advancement of science, the arts, and the humanities.

Let me finish with some notes. I was actually challenged last week to try to factor out my personal biases. I teach security and privacy, and I have as part of that business, as we all do, developed certain biases. I decided to go out and talk to a number of sister institutions, the real thought leaders in technology. I contacted the technology leadership of about 20 institutions across the country. This being senior researchers of technology leadership, the people that set policies at other institutions, and of the 20 I received 17 responses. The institutions are: MIT; University of California at Berkeley; Carnegie Mellon University; Columbia University; Cornell University; University of Pennsylvania; Johns Hopkins University; University of British Columbia; University of Illinois at Urbana-Champaign; University of Washington; University of California; Santa Barbara; University of Massachusetts; University of Virginia; Dartmouth University; Purdue University; and Stony Brook University.

These are the people who really consist of the center of the security community, both in research and in terms of setting national public policy. There are few things that came very, very clear, so I offered each of the institutions—each of the people that I contacted—the opportunity to provide me with one to three sentences that might help this body understand their thoughts on Penn State's proposed policy. As it turns out, they utterly ignored the submission requirements. The chair of the Department of Computer Science wrote about 1,000 word essay. The technology

leadership at MIT wrote an entire history of data management at MIT and broke down the specific policies that are engaged there now and some of their objections to Penn State's policy.

To put it quite bluntly, I could not find a computer scientist or a technology leadership person in technology leadership at these major institutions who felt this was an appropriate policy for any organization such as Penn State. As a means of conclusion, let me offer you the comments from David Wagner, who is a Professor at University of California, Berkeley and the number one security researcher on earth. He says:

"It strikes me that this requirement [to scan computers] raises serious concerns. Forcing faculty to install software on their machines strikes me not only as an invasion of privacy, and one whose security justification seems dubious at best (and potentially harmful to security at worst), but also one that infringes upon academic freedom and other legitimate rights of the faculty and student body. To put it bluntly, if UCB proposed this, I would be up in arms."

Thank you very much.

Chair Blood: Thank you Professor McDaniel. The presentation will be posted on the Senate Web site today. Thank you.

We are going to close the discussion now and move on. We have a full agenda. Let us move to the Forensic business.

FORENSIC BUSINESS

SENATE COMMITTEE ON FACULTY AFFAIRS Online Education Issues—I: Courseware and Copyright Victor Brunsden, Chair

Chair Blood: The Senate Committee on Faculty Affairs is sponsoring a forensic session entitled Online Education Issues—I: Courseware and Copyright and it appears as Appendix C.

There are six questions starting on page four of the report. We will move through the questions in order.

Committee Chair Victor Brunsden will introduce this report.

Senate Council has allocated 20 minutes for this discussion. During the presentation, if John Nichols would like to make comments, since he is chair of the Instructional Intellectual Property Taskforce, I invite him to do so.

Victor Brunsden, Altoona: I would like to turn the floor briefly to John Nichols so that he can introduce the Intellectual Property Taskforce. While John is waiting for the microphone, the taskforce granted the same motivation that led to this report. This was originally a charge to

Faculty Affairs last year to examine their policy RA-17, and we got to a point where we realized that we needed a lot more clarification and some input from the Senate.

John Nichols, Chair of the Instructional Intellectual Property Taskforce: Thank you, Victor. I just want to take a second of your time and not cut into the important discussion. Late last spring, then Chair Blasko and Provost Erickson appointed a joint administrative faculty University-wide taskforce to look at the issue of Intellectual Property in the instructional realm. I think there was a sense that the current hodge-podge of Penn State policies were not up to the task of dealing with the rapidly changing environment, particularly as it deals with online instruction and many of the issues that were identified in the excellent Faculty Affairs report. As Chair Blood said there is a detailed charge on the Senate Web page, so I will not review that, but generally we were asked to identify any issues that currently exist and to offer recommendations for changes or additions, or at the very least consolidate and integrate which most of us think is a hodge-podge of current policies. What I would like is to ask for your help. In order for us to be sensitive to the diversity of disciplines, the complexity of the University, the variety of teaching methods, and most of all, the core academic mission of a public Land Grant University, we would like to hear from senators or others in the University community about any problems that they are encountering in this area and to anybody who would like to offer solutions to a very complex set of problems. We would definitely like to hear from you.

We have scheduled two Town Hall meetings. One, to hear from the University community; scheduled for Thursday, September 18 at 9:00 a.m. in 101 Carnegie Building. The other one is scheduled for Tuesday, September 30 at 2:00 p.m. at the same place. If you would like to attend, please contact me and we will schedule you. If you cannot make those meetings, we would like to hear from you in writing, or stop by my office for a chat. Also, Victor and at least one other member of the taskforce are members of the Senate; you could communicate through them. Again, it is important for us to do our job in this information gathering stage to hear from a wide variety of people and perspectives throughout the University. My email jsn2@psu.edu and my phone number is 865-3065.

Chair Blood: Secretary John Boehmer is also on the committee.

John Nichols: Yes, John too. There are three members of the taskforce who are senators and you may contact them directly. Thank you.

Victor Brunsden: Thank you, John. Ultimately, the report from the taskforce will come to the Senate by Faculty Affairs. We will sponsor their report so that there will be Senate input into the report. Ultimately, it will be up to Faculty Affairs to implement the recommendations. Since we are having some input into the report, I am hoping that their recommendations will be pleasant for all of us. That is what I am at least working towards. To that end, we have this forensic session. We proposed six different scenarios, along with the concomitant questions that arise from them. I would like to open up discussion to your input. In the interests of trying to manage things a bit, since we only have 20 minutes, I would like to take the questions in groups of three. Perhaps, let us open up the floor for discussion of the first three questions.

Chair Blood: I know some of you will need a few minutes to read. First comment, Senator Backer?

Larry Backer, Dickinson School of Law: I have a question on RA-17. It talks about the entering into of suitable copyright agreement between the faculty member and the University. I have two questions in that regard: Is there a form of University copyright agreement that has already been produced or is being used, whether or not it is advertised as a form agreement? Two, does the University advise the other party to this agreement either to seek counsel or to provide counsel for them since the copyright agreement of course would be counsel generated?

Victor Brunsten: Good question. Yes, there is a standard University copyright agreement. The catch to that is that not all units use it. Some units, Earth and Mineral Sciences being pre-eminent amongst them, actually have developed their own copyright agreement, which appears to be fairly satisfactory from all reports. Of people advised, I do not really know. To seek counsel when they enter into it, I do not know. I certainly do not know from personal experience, I would suspect not.

Unidentified Senator: My question regards material that the University commissions. My question concerns the status of ideas, notes, material that is peripheral to actual product delivered to the University which it owns. My questions concern the status. Does the University own them? Does the faculty member retain rights?

Victor Brunsten: The University does not own that, it only owns the end product.

Unidentified Senator: So that further use of those, say for a similar or even a very different cause, would be the faculty member's.

Victor Brunsten: That has been the case, yes. Perhaps if I open it up to discussion of all six questions that might generate some more discussion. This might be the first time when I have seen the Senate not come up with questions.

James Strauss, Science: I will give you some personal things that have gone on in my academic life. I have a teaching relationship with another campus within the Penn State system. I basically used PowerPoints and lecture presentations similar to what I have been using on this campus. I went to that campus and delivered these for a series of several years. Part of their requirements were they wanted these items posted on their particular Web site in ANGEL for their students to use, which I consented to. Since then there has been a change in faculty. New folks have come in. I am not needed to do these lectures, which I am fine with, but then I get, "Oh, but by the way, the materials that you have organized are just wonderful and we would like to use them. Do you have a problem with that?" Personally, I probably did, but when I really thought about it, I thought well they are posted there and even if I say I do, they probably have them anyway so I just gave that away. The bigger picture is this leads me to consider that really anything that I post on ANGEL in general becomes sort of public domain rather than my own domain. Do we have any comments on that?

Victor Brunsten: The current situation with the mish-mash of policies that Penn State has regarding instruction intellectual property is that, with the exception of RA 17, by default the University tends to own all such things with a bunch of exceptions. Those exceptions are those that are for part of the traditional academic sphere. The research that we publish our creative and scholarly works, most of the materials that we developed for our classes, we own. That is very standard across most universities. These sorts of exceptions are the norm. You have identified one of the reasons why we sought more clarity on this, so perhaps if I could toss the question back to you. What, in your mind, would be the ideal situation for you?

Chair Blood: Is that rhetorical, Victor?

Victor Brunsten: It is a serious question.

Chair Blood: Because he does not have the answer.

Victor Brunsten: I do not have very many answers, that is why I am coming to you. I only have a lot of questions. That is why there are six of them and they are just the beginning six. The committee worked very hard on this last year and we thought maybe we could come up with something and realize the more that we thought about this, the less we knew. We really are seeking your input on this. Perhaps this is too short, too brief a venue to do this.

Chair Blood: One more question then.

Ann Taylor, Earth and Mineral Sciences: I guess my comment is not really to provide any answers, but I would like to hear more about what you are going to do next. My first thought when I looked at the agenda for today was there is no way we can discuss six questions in what turned out to be about 15 minutes. Obviously, there is a lot of discussion that needs to take place and there are some very successful models like the one used in Earth and Mineral Sciences. What is your next step?

Victor Brunsten: The next step is really up to the taskforce. They will be consulting with Faculty Affairs and the Senate on its set of recommendations and the recommendations that the taskforce will come up with will be essentially general principle based for trying to rationalize and come up with some strategy for instructional intellectual property at Penn State. After that, Faculty Affairs, I am guessing that this will happen some time in the spring, will have the task of actually translating those recommendations into a policy or set of policies. We did talk to representatives from Earth and Mineral Sciences last year. It was very impressive. I like very much, personally, what Earth and Mineral Sciences has done. I think the college has a lot of very good things to offer the University at large. That is essentially the sequence of events. While this started out purely as a forensic for Faculty Affairs, it has taken a slight detour into being essentially a joint forensic for both the taskforce and for Faculty Affairs ultimately. Are there any more questions?

Chair Blood: Just to comment, there was no taskforce until Faculty Affairs brought this to the Senate. The next stage is this input and you can provide that to the taskforce and they will be

back, and that is why this is labeled, "Session 1." We can take one or two more comments, and then we will close this and hear from you in the spring.

Larry Backer: It is an interesting set of six questions. The real question that all six seem to be asking or that I am going to ask you is they suggest one of two possible underlying philosophies that the commission will have to embrace in working through the answers, because the answer to any of these six can be either one favoring the University, or one favoring the individual; a policy that favors flexibility and negotiation or a policy that favors a standard contract with respect to which all faculty must sign or quit for whatever money is given. My question to you is, has there been an explicit embrace of a particular set of philosophies underlying the approach to these questions and issues and would the commission make those explicit in both working through these problems, and as an introduction to their report. It would be very nice to know what motivates you or how you are approaching this as you work through these issues.

Victor Brunsten: Those are very good questions, and Larry in part, knows the answer to the first. Yes, and I can not go too far, but the taskforce at least has reached the point very recently where we basically came to that fork in the road, so we chose it.

My own personal preference is to come down on the side of faculty ownership. I know that is shared by several individuals. I would hope that whichever way ultimately this comes down, because whatever we come up with is going to require buy in from the administration and from the faculty. Now, will we get there?

Chair Blood: We have time for one more comment from someone who has not spoken yet.

John Bagby, Information Sciences and Technology: Thank you, Victor. I have a prepared statement. Eleven years ago, Derek Elsworth and I were charged, he by the Senate Committee on Research and I by Faculty Affairs, to develop an Advisory and Consultative Report analyzing the so-called Dutton Report. You might recall, the Dutton Report was a product of the task force chaired by former College of Earth and Mineral Sciences Dean John Dutton to make findings and recommendations on Computer-Aided Instruction (CAI). Over the past eleven years much has changed.

First, the University's strategic efforts to expand online education have steadily increased.

Second, considerable experience with many particular projects has accumulated in a number of course deliveries providing cost-benefit experience, effectiveness data, and information about online course quality.

Third, CAI has evolved into network delivered online coursework.

Fourth, as we heard earlier today from the Information Technology Services folks, security concerns have shifted from largely physical threats to threats against cyberspace assets: computers and networks and their stored or in transit information.

Fifth, many technologies have advanced over that eleven years. For example, advances are well-

known in computer storage, and network speed and fancy graphics. Unfortunately the latter apparently do not make it onto my Web postings.

Sixth, online business models and IT architectures have evolved and are likely to continue their evolution, maybe even at a faster pace than we have seen over the past 11 years. Of course, we made some mistakes in that report. We saw absorption of course content, previously covered largely by copyright law, into patentable software and business methods. That prediction seemed reasonable, even inspired, given the then recent and seminal State Street Bank case permitting patentability of business methods, such as online course delivery. However, after the passage of time, it now appears that the absorption of copyright protected course content is much more likely into trade secrecy, using non-compete clauses and non-disclosure agreements to restrict faculty mobility. Nevertheless, Derek Elsworth and I should be pleased that the major discussion points in that Advisory and Consultative Report, a report that unanimously passed by this Faculty Senate on February 3, 1998, have NOT changed:

First, research and instructional faculty remain the primary creators and conduits of knowledge. Second, faculty's firm understanding of these issues unfortunately lag practice. Third, these issues remain an epic struggle over intellectual property and restrictions on faculty's careers.

I have more to say and I will tell that to the taskforce. Thank you.

Chair Blood: Thank you.

Victor Brunsdon: Thank you all. Just one further thing, my email is ywb2@psu.edu. I invite you to email me or John or other members of the taskforce. Thank you.

UNFINISHED BUSINESS - NONE

LEGISLATIVE REPORTS

SENATE COMMITTEE ON COMMITTEES AND RULES

Revision to Bylaws, Article III, Add New Section 9 (Election to the Senate)

Leonard J. Berkowitz, Chair

The first legislative report is from Committees and Rules and it appears as Appendix D.

Because this report is a proposed amendment to the Bylaws, it will be discussed today and then voted on at the October 21 Senate meeting.

Committee Chair Leonard Berkowitz will present this report.

Leonard Berkowitz, York: I apologize for not having anything with any heat or controversy to present to you, so maybe there will not be any discussion, but just presentation. Some time ago, small units with only a single Senator brought a concern to us that if their Senator could not make a meeting of the Senate that left the unit without any voice at all and asked if there was some way to address that problem. That, of course, is accounted for within Senate Council

where everybody has just a single representative and we offer a substitute. It seemed like that was a way to address for those small units and that is what we are proposing. As you have just been told, we can discuss it today, the vote will be next time. Does anybody have any questions or comments?

Ralph Crivello, Engineering Student Senator: I would just like to draw attention to Section 9, where it specifically denotes Faculty Senators as opposed to the generic Senators. I note this because as student representatives, we uniquely and singularly represent a specific constituency. The question for CC&R, has two parts: One, was there a rationale for specifically singling out faculty as opposed to all Senators within the Faculty Senate and acknowledging that there are some potential complications and differences between faculty and student Senators? CC&R examined a potential of extending this to students in some force, especially for Commonwealth students, that way to increase participation to the fullest extent by student senators.

Leonard Berkowitz: Thank you. The concentration was not on the Faculty Senators, but rather on units, so that is why that did not come up. I think it is a perfectly reasonable request and the committee will be happy to take that up as a separate issue.

Donald Rung, Retired Senator: I noticed that you have the implementation date upon approval by the President. I am not certain about Bylaws. I do not see anything in the Constitution that requires the President to approve Bylaw changes, and I would hate to have any precedent set in this matter. I would ask that you look at this, please, before you bring it back next time. Thank you.

Leonard Berkowitz, York: To go to the Constitution, under legislative function, it does say that, and that is the reason it is done, it's always been done that way, but I understand your concern and we will take it up with Senate officers.

Donald Rung: I distinguished between the Constitution and the Bylaws and the Standing Rules. They are separate. Thank you.

Chair Blood: Any more comments for Leonard? Thank you.

Again this year we will be using the Personal Response System (PRS), also known as the "clickers," to vote on Legislative and Advisory and Consultative Reports.

This system provides a precise count for each vote taken. It also allows for confidential voting and gives immediate results. The clickers will be distributed in the Kern lobby prior to each Senate meeting. Raise your hand if you do not have a clicker.

Dave Test, a programmer with Teaching and Learning with Technology, will give us a brief instructional presentation before we begin our first legislative report.

<Clicker Demonstration>

Chair Blood: Don't forget to place your clicker in one of the boxes at the back of the auditorium before leaving. Last year we lost two clickers and if you have one on your office bookcase shelf, you can return it anonymously to the Senate office, 101 Kern Building.

SENATE COMMITTEE ON UNDERGRADUATE EDUCATION
Revision to the Senate Policy 42-50, Credit by Examination
Jonna M. Kulikowich, Chair

Chair Blood: The next report is from Undergraduate Education and it appears as Appendix E.

Committee Chair Jonna Kulikowich will present this report.

Jonna Kulikowich, Education: The previous version of this report was 42-50, Credit by Examination/Proficiency Examination in two parts: One for credit by examination and the second for credit by undergraduate proficiency examination. Because now the earning of the credits along with how the credits will be recorded on the transcript will be similar for both situations, and because there is no grade that will be assigned in the purposes of computing the GPA, it seemed in the best interest to simplify the policy into a revised version which appears before you today as 42-50 Credit by Examination (CRX) with the idea that the CRX would be the notation recorded on the transcript.

Chair Blood: Gary Fosmire, Vice-Chair, is also here to answer questions.

Abul Hasan, York: In courses that involve extensive lab work, do you envision a laboratory examination as well?

Jonna Kulikowich: I do not know how to respond to that question. I'm not sure that the lab work is part of Undergraduate Education or actually part of the college or unit that would need to consider such courses to be offered by CRX.

Caroline Eckhart, Liberal Arts: I was a member of the subcommittee that worked on this last year. The academic department of the program offering the course determines whether it wants to make Credit by Examination available. There are probably a wide variety of courses throughout the University for which Credit by Exam is not appropriate and then all the offering unit needs to say is "no."

Chair Blood: Additional discussion?

Samuel Loewner, Liberal Arts Student Senator: The students in the student caucus have a concern about the last sentence of the legislation: As with policy 42-97, a fee may be assessed to cover the costs of the procedure. There is concern about what that fee will be, what qualifies as part of the procedure, and how that fee will be explained to students.

Jonna Kulikowich: The fees reference E-2 which outlines the procedures and lists rather clearly that the student pays the required fee at the college that will administer the exam with those forms and those procedures being made by that unit. I believe that is the reference to how the fees would be handled in each instance.

Chair Blood: Additional comments?

Tramble T. Turner, Abington: As a follow up to the question that was just asked, and your response, I suspect that there is some concern about whether fees will vary widely or if there will be a standardized fee and if we have any information on what that might be.

Jonna Kulikowich: If we have such information on what that might be I would not know. As far as the fee, I understand there are formal fee policies and again, I defer to any of my colleagues who might have more information to answer your question.

Chair Blood: Jean Landa Pytel said there is a standard fee.

Abul Hasan: There is a student who is taking Credit by Examination now and he has paid \$30 for that purpose.

Chair Blood: That's per credit, right?

Abul Hasan: Yes.

Chair Blood: This report has been brought to the floor by committee and needs no second. Are we ready to vote?

All those in favor of this report press A and enter. Opposed, press B and enter.

The motion passes, 159 in favor, five opposed.

Thank you Senators Kulikowich and Fosmire.

ADVISORY/CONSULTATIVE REPORTS

SENATE COMMITTEE ON FACULTY AFFAIRS

Rights and Responsibilities of Fixed-Term Faculty: Promotion and Governance
Victor Brunsten, Chair

Chair Blood: The next report is from Faculty Affairs and it appears as Appendix F. Committee Chair Victor Brunsten will present this report.

Victor Brunsten, Altoona: There is a minor addition to this report. This morning the Faculty Affairs Committee voted to change their report just slightly. I'll read it since it is fairly minor. It is the first recommendation on Page 8. We have changed the first sentence of that first

recommendation to read, "...the Provost ensure that all deans, in consultation with faculty, including fixed-term faculty, establish policies..."

This report is part of an ongoing program that Faculty Affairs, Intra-University Relations and others have been working on for the last few years to better include and integrate fixed-term faculty into the Penn State faculty. They make up just under 50 percent of the full-time faculty. They are colleagues and our respected colleagues, no less. The report is aimed at trying to achieve some degree of equity in the way our colleagues are treated across different units. Some units have been very good at including their fixed-term faculty in governance, in the appropriate levels of the governance, of the units. Other units have perhaps not been so good.

Chair Blood: Does anyone wish to comment?

Tramble T. Turner, Abington: My apologies to the chair of Faculty Affairs. One of our retired Senators, Donald Rung, just called to my attention that the wording that was added to Recommendation 1, Page 8 should probably also be added to Recommendation 2, Page 8.

Victor Brunsdon: Are you proposing that as a friendly amendment? I will accept that.

Chair Blood: Any additional comments?

Leonard Berkowitz, York: I think this an excellent report, and I am very pleased with the recent additions, but I'm a little puzzled by Recommendation 2. Recommendation 2 simply says that deans in consultation with faculty develop guidelines and communicate those guidelines, but doesn't encourage the units to allow fixed-term faculty to play a role in governance. I would much prefer to see a stronger positive statement.

Victor Brunsdon: That is a good point. To some extent we thought that this was going to be as much as we were going to be able to get away with. I would ideally like to see what you propose. Some units have absolutely no guidelines whatsoever. At least if they are on the books, then there is something to point to and point out that the faculty is not being included.

Denice Wardrop, Earth and Mineral Sciences: I have two comments. I will save the one regarding the recommendations for the second. The first is to point out that the statement that is from the quote from HR-23 at the bottom of Page 3, which is fixed-term faculty may not be promoted to a tenure track position. I just want to point out that I have seen that be problematic in three ways: The first is that I have watched that be ignored three times in my college for spousal hires, which is problematic. The second is that sometimes that rule has prevented something that makes a lot of sense from happening, which would be a very good reason. The faculty in the unit would be amenable to having someone change from fixed-term to tenure track, but this rule is brought out as preventing that from taking place. This rule is often trotted out just to deny any conversation regarding those cases. So, you can't change HR-23, but I would just like to point out to the committee that this is interpreted in many, many different ways, if not totally disregarded. When you are a fixed-term faculty member and you are operating under this and you watch spousal hires where the rule is suspended, that is quite demoralizing and I think it is problematic for the entire unit.

Victor Brunsten: I would agree with you, unfortunately, our charge was not to address that. I would agree and I know that whether that is actually followed or not is very much unit and administrative dependent.

Denice Wardrop: The second is more concrete. In EMS, we have done a lot of work over the last five years and developed policy for appointment, evaluation, and promotion and I would just ask you to consider three additional best practices that we found important in our process. One is that the unit faculty as a whole to develop a statement of the role of fixed-term and research faculty in achieving the mission of the unit. So there is a conversation that takes place where people understand what is the role of fixed-term faculty.

The second is that often in evaluation procedures there is a need because most fixed-terms are on a one-year contract. Their job descriptions can change every year, and so there is a requirement in EMS that those job descriptions by which you are evaluated against must be reviewed every single year, not just when it says that you are supposed to do that to renew the appointment. I think it is actually more important for evaluation and promotion to make sure that those job descriptions are reviewed and updated every year. The third thing that our committee actually dealt with quite a bit was, there is no accountability. While unit administrators are often evaluated on how they manage their tenure-track faculty, there is no incentive because there is no accountability on how well they manage their fixed-term faculty. Often we have seen people go 15 years without an evaluation because of that.

Victor Brunsten: I would agree with the caveat if unit administrators are evaluated at all. Thank you.

Patricia Hinchey, Worthington Scranton: I would like to suggest that perhaps the language in the first recommendation might need some clarification. We do not have deans in all of the units. I assume that on the campuses with directors of academic affairs that they would be doing it, but that is not clear here. More importantly, however, for us and the University College, I cannot be the only one who wonders what our academic unit is. Our promotion and tenure is discussed and we have a College Promotion and Tenure committee but all other academic and personnel affairs have been shifted to the local level. It is not clear how a unit is defined in this report. We don't know what we are, so I wouldn't know how to implement this.

Victor Brunsten: There is a vice president of the University College. So does anybody have a proposal?

Chair Blood: I believe that also acting as Dean for promotion and tenure decisions is part of the title. Right?

Victor Brunsten: Yes.

Chair Blood: The report has been brought to the floor by committee and needs no second. Are we ready to vote?

All those in favor in this report press A and enter, again the large green arrow. Opposed B and enter.

The motion passes, 141 in favor, 11 opposed.

Victor Brunsten: Thank you.

INFORMATIONAL REPORTS

ADMISSIONS, RECORDS, SCHEDULING, AND STUDENT AID

Annual Report of High School Students Enrolled Nondegree in Credit Courses, Appendix G. The annual report was compiled by Anne L. Rohrbach, Executive Director for Undergraduate Admissions.

FACULTY RIGHTS AND RESPONSIBILITIES

Faculty Rights and Responsibilities, Annual Report of 2007-2008, Appendix H. This annual report provided a summary of the cases considered in the last academic year.

INTERCOLLEGIATE ATHLETICS

This report was withdrawn from the September 9 agenda and will be presented at the October 21 Senate meeting.

INTRA-UNIVERSITY RELATIONS

Campus Security at All Locations, Appendix J. Committee Chair Amanda Maple and Director of University Police Stephen Shelow, presented the report and responded to questions concerning security at all Penn State locations.

JOINT COMMITTEE ON INSURANCE AND BENEFITS

Joint Committee on Insurance and Benefits Annual Report 2007-2008, Appendix K. This annual report focused on the following topics: health plan consolidation, healthcare coverage for faculty/staff/retirees, wellness, long-term care plans, and the dental plan. Committee Chair Keith Crocker and Robin Oswald, Manager of Employee Benefits, responded to questions.

NEW LEGISLATIVE BUSINESS - NONE

COMMENTS AND RECOMMENDATIONS FOR THE GOOD OF THE UNIVERSITY

Chair Blood: Are there any comments?

ADJOURNMENT

Chair Blood: May I have the motion to adjourn? All in favor please say aye. Motion carries. The Senate is adjourned until October 21, 2008. The meeting was adjourned at 4:10 p.m.

The following Senators signed the Attendance Sheet and/or were noted as having attended the September 9, 2008 Senate Meeting.

Abrams, Marc	Cherry, Robert
Agawu-Kakraba, Yaw	Chorney, Michael
Akashi, Hiroshi	Clariana, Roy
Albaugh, Vance	Clark, John
Aldinger, Michael	Clark, Elisha
Al-Mondhiry, Hamid	Clark, Mary Beth
ambrose, Deborah	Cohen, Jeremy
Ambrose, Anthony	Conroy, David
Aurand, Harold	Coraor, Lee
Avery, Christine	Crawford, James
Aynardi, Martha	Crissman Ishler, Jennifer
Babb, David	Crivello, Ralph
Backer, Larry	Daerr, Alicia
Badiali, Bernard	Danni, Julie
Bagby, John	Davis, Dwight
Baggett, Connie	Day, Rick
Ballora, Mark	Deines, Peter
Barney, Paul	Drago, Steven
Baum, Paul	Ebitz, David
Bechtel-Wherry, Lori	Eckhardt, Caroline
Beebee, Thomas	Egolf, Roger
Benson, Thomas	Englund, Richard
Berghage, Robert	Eze, Ezedube
Berkowitz, Leonard	Fernández, Juan
Blasko, Dawn	Floros, Joanna
Blood, Ingrid	Fosmire, Gary
Boehmer, John	Franchetti, Nicole
Booker, Squire	Freihaut, James
Bordi, Peter	Furlough, Michael
Bowen, Blannie	Gest, Scott
Bower, Robin	Gilchrist, Ian
Bowers, William	Glantz, Edward
Breakey, Laurie	Glumac, Thomas
Bridges, K. Robert	Goldstein, Jennifer
Brown, Frederick	Good, David
Brunsdon, Victor	Gort, Alexandra
Buckley, William	Gouran, Dennis
Butler, Peter	Gray, Barbara
Cardamone, Michael	Haigh, Michel
Casteel, Mark	Hampton, Grace
Catchen, Gary	Hannan, John

Harmonosky, Catherine
Harwood, John
Hasan, M. Abul
Hayford, Harold
Heim, Nicholas
Hesse, Brian
Hester, Anne
Hilbert, Meghan
Hinchey, Patricia
Holcomb, E. Jay
Holen, Dale
Hufnagel, Pamela
Hupcey, Judith
Idowu, Peter
Irwin, Zachary
Isard, Scott
Jackson, Eric
Jago, Deidre
Jayakar, Krishna
Johnson, Ernest
Jones, W. Terrell
Jonson, Michael
Kasting, James
Ke, Bin
Keiser, Joseph
Khalilollahi, Amir
Knodt, Ellen
Korostoff, Neil
Kulikowich, Jonna
Lagoa, Constantino
Laman, Jeffrey
Lawlor, Timothy
Lee, Barrett
Lee, Peggy Daniels
Lesk, Arthur
Leva, Martha
Lightfoot, Cynthia
Lingle, Virginia
Liu, Zi-Kui
Liu, Ying
Loewner, Samuel
Long, Christopher
Lu, Xiaofei

Luloff, Albert
Mahon, William
Maple, Amanda
Maroncelli, Mark
Marsico, Salvatore
Masters, Katherine
McCarty, Ronald
McDonald, Anita
McKinney, Karyn
McLucas, John
Melnick, Steven
Mets, Berend
Miles, James
Miller, Timonty
Milone-Nuzzo, Paula
Mockensturm, Eric
Mohney, Suzanne
Morales, Aldo
Mullin, Christopher
Nasereddin, Mahdi
Nelson, Keith
Ofosu, Willie
O'Hara, Dolores
Page, B. Richard
Pangborn, Robert
Paterson, Eric
Pauley, Laura
Pell, Eva
Pendharkar, Parag
Perrine, Joy
Peterson, Steven
Plumb, Peter
Poole, Thomas
Potter, Kelly
Pytel, Jean Landa
Radhakrishna, Rama
Rannels, Stephen
Reeves, W. Brian
Richards, Winston
Ricketts, Robert
Robinson, Cynthia
Romano, John
Romberger, Andrew

Rose, Anne
Rosson, Mary Beth
Ruiz, James
Rung, Donald
Safae, Sahar
Salvia, A. David
Sanchez, John
Sanders, Amy
Sandmeyer, Louise
Sathianathan, Dhushy
Schmiedekamp, Ann
Schultz, Karen
Schwab, Jacqueline
Selzer, John
Shannon, Kathleen
Shannon, Robert
Shirer, Hampton
Shostell, Joseph
Sims, Damon
Sims, Barbara
Slusser, Philip
Smid, Ivica
Smith, Matthew
Smith, James
Smutz, Wayne
Spanier, Graham
Spector, David
Spencer, David
Staneva, Marieta
Stene, John
Strauss, James
Strauss, Susan
Strikman, Mark
Szczygiel, Bonj
Taylor, Ann
Thurman, James
Tierney, John
Troester, Rodney
Turner, Tramble
Van Meter, Peggy
Vandiver, Beverly
Vrana, Kent
Wagner, Amy

Wallace, Michael
Wardrop, Denice
Waterhouse, William
Welch, Susan
White, Eric
Wiens-Tuers, Barbara
Wilson, Ronald
Wolff, Sarah
Yarnal, Brenton
Yarnal, Careen
Ziegler, Gregory

Elected	205
Ex Officio	6
Appointed	11
Total	222